IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CWP-1635-2021
Date of decision : 13.05.2024

Bhinder Kaur ….Petitioner

V/S

Pepsu Road Transport Corporation and another ….Respondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. H.P.S. Ghuman, Advocate for the petitioner.

Ms. Harmanjeet Kaur, Advocate for
Mr. Harsh Chopra, Advocate for the respondents.

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<u>NAMIT KUMAR, J. (ORAL)</u>

1. The petitioner has filed the instant writ petition under Articles 226 and 227 of the Constitution of India seeking a writ of mandamus directing the respondents for providing full benefits under the heads gratuity, leave encashment and provident fund etc. and the monetary benefits so arrived at with interest @ 12% per annum from the date of accrual till its realization as demanded in the legal notice dated 01.10.2020 (Annexure P-2).

2. Brief facts of the case, as have been pleaded in the petition, are that the husband of the petitioner namely Mukhtiar Singh joined the respondent-department as Conductor on 01.06.1979 and after serving the department for about 21 years, he unfortunately died on 12.07.2021, while in service. After his death, the respondent-department was under legal obligation to pay all the death-cum-retiral dues to the petitioner such as gratuity, leave encashment, provident fund etc. However, the respondent-department has only calculated the

amount of gratuity and paid a meager amount of Rs.1,52,250/- to the petitioner. The respondent department has not provided the components of such calculation to the petitioner. The petitioner had approached the respondent-department many time in this regard but to no avail. The petitioner has also served a legal notice dated 01.10.2020 upon the respondent-department but no action has been taken on the same. Hence, this petition.

3. Pursuant to notice of motion, reply on behalf of the respondents has been filed in which, it has been averred as under :-

> *"xx xx xx xx xx*
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> *5. That the present writ petition is misconceived since all the due benefits has been paid by the answering respondents in relation to the deceased employee, namely Late Mukhtiar Singh, Conductor. In this context, the following points need to be noted:*
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> *5.1. The last drawn basic pay of the deceased employee was Rs.5,000/-; whereas, his D.A. was @ Rs. 2,250/- Further, the total length of service of the deceased with PRTC was 21 years. Thus, the gratuity has been calculated as under:*
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> ***5,000 + 2250 = 7250 * 21 = 1,52,250/-***
>
> *5.2. That the aforesaid amount was paid to the Petitioner by PRTC vide letter dated 09.07.2002. Further, it has been admitted by the Petitioner inter alia in para no.5 that she has already received Rs.1,52,250/- towards gratuity. It is also submitted here that nothing more is due towards the head of gratuity to the Petitioner.*
>
> *5.3. That the Petitioner has also been paid the following by the Answering Respondents:*
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> *(A) Leave encashment: 17 earned leaves which come to Rs. 4,051/- The aforesaid amount has been paid vide cheque no. 765857 dated 25.07.2001 to the Petitioner vide order No 532 dated 23/07/2001 of Faridkot Depot P.R.T.C.*

(B) G.P. Fund: PRTC has paid a sum of Rs. 1,06,765/- towards G.P. Fund to the Petitioner vide cheque no. 89022 dated 31.05.2002 vide order No.5308 Dated 02/09/2021 of Head Office P.R.T.C.

xx xx xx xx xx"

4. Learned counsel for the petitioner restricts his claim with regard to the interest on the delayed payment of retiral dues. He submits that since the retiral dues of the husband of the petitioner have been released after a considerable delay, therefore, he is entitled for interest on the same.

5. On the other hand, learned counsel for the respondents, while referring to the averments made in the reply, submits that since all the retiral dues have already been paid to the petitioner, therefore, the instant petition has been rendered infructuous.

6. I have heard learned counsel for the parties and gone through the relevant documents.

7. Admittedly the husband of the petitioner died on 12.07.2001 and his retiral dues i.e. gratuity amounting to Rs.1,52, 250/- was released vide letter dated 09.07.2002 and G.P. Fund amounting to Rs.1,06,765/- was paid vide cheque dated 31.05.2002. Since the retiral dues of the husband of the petitioner have been released after a considerable delay, therefore, the petitioner is held entitled for interest @ 6% per annum on the same.

8. A Full Bench of this Court in ***A.S. Randhawa Vs. State of Punjab and others : 1997(3) S.C.T. 468*** has held that where there is an inordinate delay in releasing benefits and the delay is not justifiable,

employee will be entitled for interest. The relevant paragraph of said judgment is as under:-

> *"Since a government employee on his retirement becomes immediately entitled to pension and other benefits in terms of the Pension Rules, a duty is simultaneously cast on the State to ensure the disbursement of pension and other benefits to the retiree in proper time. As to what is proper time will depend on the facts and circumstances of each case but normally it would not exceed two months from the date of retirement which time limit has been laid down by the Apex Court in M. Padmanabhan Nair's case (supra). If the State commits any default in the performance of its duty thereby denying to the retiree the benefit of the immediate use of his money, there is no gainsaying the fact that he gets a right to be compensated and, in our opinion, the only way to compensate him is to pay him interest for the period of delay on the amount as was due to him on the date of his retirement."*

9. Apart from this, a Coordinate Bench of this Court in ***J.S. Cheema Vs. State of Haryana : 2014(13) RCR (Civil) 355*****,** had held that an employee will be entitled for the interest on an amount which has been retained by the respondents without any valid justification. The relevant paragraph of the said judgment is as under: -

> *"The jurisprudential basis for grant of interest is the fact that one person's money has been used by somebody else. It is in that sense rent for the usage of money. If the user is compounded by any negligence on the part of the person with whom the money is lying it may result in higher rate because then it can also include the component of damages (in the form of interest). In the circumstances, even if there is no negligence on the part of the State it cannot be denied that money which rightly belonged to the petitioner was in the custody of the State and was being used by it."*

10. In view of the above factual position and settled principles of law, the present petition is disposed of with a direction to the

respondents to pay interest @ 6% per annum to the petitioner, on the delayed payment of retiral dues of her husband w.e.f. 12.07.2001 (i.e. the date of death of her husband) till the actual date of payment, within a period of 03 months from the date of receipt of certified copy of this order.

13.05.2024 **(NAMIT KUMAR)**
kothiyal **JUDGE**

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No